



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 15, 2006

ITEM NO:

SUBJECT: REVIEW OF MINOR CONDITIONAL USE PERMIT ZA-06-18
1676 TUSTIN AVENUE (BEACH PIT BBQ)

DATE: AUGUST 3, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

PRESENTATION BY: WENDY SHIH, ASSOCIATE PLANNER

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

RECOMMENDED ACTION

Conduct public hearing and adopt resolution either upholding, reversing, or modifying Planning Commission's decision.

BACKGROUND

On August 8, 2005, Planning Commission approved a planning application (PA-05-16) to allow off-site and shared parking on the abutting property at 411 East 17th Street (Frazee Paint), to accommodate outdoor seating for Beach Pit BBQ restaurant located at the subject site, but denied the applicant's request for an outdoor television behind the restaurant. The Planning Commission's decision was appealed to the City Council and on September 6, 2005, City Council upheld Planning Commission's decision to approve the off-site parking and to deny the outdoor television. The minor conditional use permit (MCUP) for the outdoor television was denied because it was felt the additional outdoor activity would create higher noise levels due to cheering or other forms of audience participation and interaction impacting residents to the south. Since the Zoning Code does not allow reapplication for substantially the same request within 6 months of the date of the denial, the applicant waited until March 2006 to reapply for the outdoor television.

Following application for the subject MCUP, the applicant installed a television and used it on one weekend during the NCAA basketball finals. A neighbor complained and the applicant was cited by Code Enforcement on March 27, 2006. The television has not been used since, and the applicant has apologized.

On April 20, 2006, the Zoning Administrator denied the applicant's reapplication for an outdoor television, without any audio (video only). On April 26, 2006, the applicant appealed the decision because he feels that having an outdoor television is consistent with the restaurant and zoning of the property and that their 9 p.m. closing time would mitigate any negative impacts on the neighbors.

At their meeting of July 10, 2006, by a vote of 4 to 0 (Bill Perkins abstained), Planning Commission denied the reapplication. On July 17, 2006, Council Member Gary Monahan called-up the application for review to ensure due process and a full discussion of the facts.

ANALYSIS

The subject property is surrounded by commercially zoned and developed properties to the north, west (across Tustin Avenue) and east. The properties to the south are zoned R1 (Single-Family Residential) and contain two, two-story dwelling units.

According to the applicant, the television will be limited to visual with the audio turned off, and it will be turned off at 9 p.m. A canopy has also been installed over the patio, which screens this area from the residents. However, the Planning Commission determined that the outdoor activity would still negatively impact the neighbors more so than a typical outdoor dining area. While the canopy does visually screen the patio, Commission felt that it would not substantially reduce potential noise levels to allow the quiet enjoyment of the surrounding neighborhood.

ALTERNATIVES CONSIDERED

If the Planning Commission's denial of the MCUP is upheld, an outdoor television would still be prohibited.

If the City Council reverses the Planning Commission's decision and makes findings for approval, an outdoor television could be permitted. A list of recommended conditions of approval is attached for City Council consideration.

FISCAL REVIEW

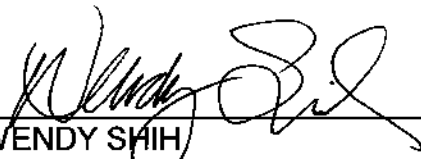
Fiscal review is not required.


LEGAL REVIEW

Legal review is not required.

CONCLUSION

The Planning Commission felt that sporting events and videos, even without sound, could encourage higher noise levels and negatively impact the adjoining residents. Since the restaurant is a one-story structure, and the adjacent homes to the south are two-story and located approximately 30 feet away, the restaurant building would not buffer the noise, making the homes susceptible to higher noise levels.


WENDY SHIH
Associate Planner


DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

Attachments: Zoning/Location Map
Plans
Photo Exhibit
Draft City Council Resolution
Exhibit "A" – Draft Findings
Exhibit "B" – Draft Conditions of Approval
Appeal Application
Minutes of Planning Commission meeting of July 10, 2006
Planning Commission Staff Report
Planning Commission Resolution

Distribution: City Manager
Assistant City Manager
City Attorney
Deputy City Mgr., Dev. Svs. Director
Public Service Director
City Clerk (2)
Staff (4)
File (2)

Mike Simonian
99 Linda Isle
Newport Beach, CA 92660

Tim Decinces
711 East 17th Street, B-12
Costa Mesa, CA 92627

Dorothy McNiff
1672 Tustin Avenue
Costa Mesa, CA 92626

| | | |
|--------------------|--------------|-----------------|
| File: 081506ZA0618 | Date: 080306 | Time: 8:00 a.m. |
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ZONING/LOCATION MAP

1676 Tustin Avenue

42514342

TUSTIN AV

E 17TH ST

R2-MD

OGLE ST

R1

CAMBRIDGE CIR

OGLE CIR

LENWOOD DR

Legend

- ☐ Selected Features
- Street Names
- Parcel Lines
- City Boundary
- Zoning
- AP
- C1
- C1-S
- C2
- CL
- IMR
- IMR-S
- MG
- MP
- P
- PDC
- PDI
- PDR-HD
- PDR-LD
- PDR-MD
- PDR-NCH
- R1
- R2-HD
- R2-MD
- R3
- TC
- parcels



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA DENYING MINOR CONDITIONAL USE
PERMIT ZA-06-18**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS
FOLLOWS:

WHEREAS, an application was filed by Tim Decinces, authorized agent
for Mike Simonian, owner of real property located at 1676 Tustin Avenue, for a minor
conditional use permit to allow an outdoor television (outdoor activities) behind the
restaurant; and,

WHEREAS, on April 20, 2006, the Zoning Administrator denied Minor
Conditional Use Permit ZA-06-18; and

WHEREAS, an appeal application was filed on April 26, 2006, a duly noticed
public hearing was held by the Planning Commission on July 10, 2006, and ZA-06-18
was denied by the Planning Commission; and

WHEREAS, the item was called up for review by Council Member Gary
Monahan on July 17, 2006; and

WHEREAS a duly noticed public hearing was held by the City Council on August
15, 2006;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the
record and the findings contained in Exhibit "A", the City Council of the City of Costa
Mesa hereby **DENIES** Zoning Application ZA-06-18 with respect to the property
described above.

PASSED AND ADOPTED this 15th day of August, 2006.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 15th day of August, 2006.

Deputy City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

EXHIBIT "A"**FINDINGS**

1. The information presented does not comply with Section 13-29(g)(2) of the Costa Mesa Municipal Code in that the proposed outdoor use is not compatible with developments in the same general area. Granting the minor conditional use permit will be materially detrimental to the health, safety and general welfare of the public and injurious to properties within the immediate neighborhood. Specifically, the property abuts residential properties to the south and the proposed outdoor television is located approximately 30 feet from a residence. Sporting events and videos, even without sound, would encourage higher noise levels due to cheering or other forms of audience participation and interaction. Since the restaurant is a one-story structure, and the adjacent homes are two-story, the restaurant will not buffer the noise, making the homes susceptible to higher noise levels. While the canopy provides screening of the rear outdoor dining area, it would not adequately reduce potential noise impacts as a result of the outdoor television.
2. The information presented does not substantially comply with Section 13-29 (e) of the Costa Mesa Municipal Code in that:
 - a. The proposed outdoor use is not compatible and harmonious with residential uses in the immediate vicinity.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed outdoor use is not consistent with the General Plan because it is not properly buffered from the sensitive, residential uses to the south.
 - d. The planning application is for a project-specific case and does not establish a precedent for future development.
3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA
MESA APPROVING MINOR CONDITIONAL USE PERMIT ZA-06-18**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Tim Decinces, authorized agent for Mike Simonian, owner of real property located at 1676 Tustin Avenue, for a minor conditional use permit to allow an outdoor television (outdoor activities) behind the restaurant; and,

WHEREAS, on April 20, 2006, the Zoning Administrator denied Minor Conditional Use Permit ZA-06-18; and

WHEREAS, an appeal application was filed on April 26, 2006, a duly noticed public hearing was held by the Planning Commission on July 10, 2006, and ZA-06-18 was denied by the Planning Commission; and

WHEREAS, the item was called up for review by Council Member Gary Monahan on July 17, 2006; and

WHEREAS a duly noticed public hearing was held by the City Council on August 15, 2006;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the City Council of the City of Costa Mesa hereby **APPROVES** Zoning Application ZA-06-18 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-06-18 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 15th day of August, 2006.

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 15th day of August 2006.

Deputy City Clerk and ex-officio Clerk of the City
Council of the City of Costa Mesa

EXHIBIT "B"**CONDITIONS OF APPROVAL (If application approved)**

- Plng.
1. The outdoor television shall be on mute at all times and shall be turned off no later than 9 p.m. daily.
 2. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 3. The minor conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The minor conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 4. A copy of the conditions of approval for the minor conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

RECEIVED
CITY OF COSTA MESA
P. O. Box 1200
CITY CLERK
Costa Mesa, CA 92628-1200

FEE: \$

2006 JUL 17 PM 4:07

APPLICATION FOR REVIEW, APPEAL OR REHEARING

CITY OF COSTA MESA
BY

Applicant Name Council Member Gary Monahan

Address 77 Fair Drive, Costa Mesa, CA 92626

Phone (714) 754-5327 Representing*

REQUEST FOR: ☒ REVIEW** ☐ APPEAL ☐ REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezone, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) ZA-06-18 for a minor CUP for an outdoor television at 1676 Tustin Avenue.

Decision by: PC

Reasons for requesting review, appeal or rehearing:

This review is being requested to ensure due process and a full discussion of the facts.

Date: July 17, 2006 Signature: [Signature]

For office use only - do not write below this line (for Gary Monahan)

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member
Costa Mesa/Forms 1/Application for Review-Appeal-Rehearing

Excerpt from the minutes of the Planning Commission meeting of July 10, 2006.

APPEAL OF ZONING
ADMINISTRATOR'S
DENIAL OF ZONING
APPLICATION ZA-06-18

Appeal of Zoning Administrator's denial of Zoning Application ZA-06-18 for Tim DeCinces, authorized agent for Mike Simonian, for a minor conditional use permit to allow an outdoor television behind the Beach Pit Barbeque Restaurant, located at 1676 Tustin Avenue, in a C1 zone. Environmental determination: exempt.

The Chair abstained from this item due to a conflict of interest in that he is an investor in that property.

Associate Planner Wendy Shih reviewed the information in the staff report and made a presentation. She said staff was recommending that Planning Commission uphold the Zoning Administrator's denial, by adoption of the Planning Commission resolution.

In response to a question from Commissioner Garlich concerning any zoning code considerations that would preclude this outdoor area from being enclosed structurally at some future date, to create more of an indoor setting, Ms. Shih said that depending on the proposed enclosed area, there would be setback requirements to be considered and floor area ratio limitations that may preclude additional square footage from being added.

In response to Commissioner Fisler, Ms. Shih said no permit is required for the television set in the main dining room.

Tim Decinces, 711 East 17th Street, Costa Mesa, owner and operator of the Barbeque Pit at 1676 Tustin Avenue, said to address viability of enclosing the rear patio, it is his understanding he could never enclose that area due to the proximity to the Cat Clinic which is on a zero setback. He said when they were designing with the City they tried to enclose portions of that area, but because of code, they were unable to.

Mr. Decinces said since they opened at this location 9 months ago, the restaurant has become a community place for families; they have donated time and money to the schools and community events. With that success and the amount of business they have had, he did not see how a soundless television would have any more impact than the patrons dining at those tables. The few events where there would actually be cheering for a sporting event, he believed there would be volume created from that, but he also believed that those events are the Super Bowl, Angels going to the World Series, or USC in the national title game, at which time every residence in the neighborhood is probably tuned to the television doing the same thing. He did not believe his restaurant would be a destination to come for that type of deal seeing as how they have one television without volume when there are plenty of sporting events in restaurants that are suited for that.

Mr. Decinces said in the information received by the Commission and himself, there were several letters from the opposition implying that some people actually believe the Beach Pit Barbeque intends to be a "Sports Bar", and as he mentioned since they opened, they have never been open past 9 p.m., nor do they intend to be; they have also designed a children's play area that exceeds their inside seating capacity.

He agreed to the conditions of approval on page 9 of the staff report and particularly condition of approval #1 which states that, "The outdoor television shall be on mute at all times and shall be turned off no later than 9 p.m. daily." He reiterated the reasons why he felt this would not have a negative affect on neighboring residents. Further, he said the television offers the restaurant the opportunity to continue to serve the community, and to continue to use that space for team parties and similar activities. He said the opposition has said (about this request and our business in general), that his business has been somehow granted special privileges due to Commissioner Perkins' involvement in the restaurant, or his father's previous career as a baseball player. He said the answer to that would be, by denying us the right to operate a television in a C1 zone, would be granting the opposition special privileges. He said the people who purchased residential property in that location were made aware they were next to a C1 zone.

Commissioner Egan stated to Mr. DeCinces that when he was before the Commission the last time, the Commission declined to approve an outdoor television set because the outdoor seating area immediately abutted single-family residences, and they were concerned about noise nuisance. She asked Mr. Decinces if anything had changed since then; if there was anything new, or if this outdoor television was any less of a nuisance? Mr. Decinces stated that a canopy has been installed over the patio and was designed to keep in heat and sound. Commissioner Egan said it was staff's belief that the canopy would not substantially mitigate the sound.

PUBLIC COMMENT:

●Dale Ward, 436 Cambridge Circle, Costa Mesa, directly behind Beach Pit Barbeque, approximately 4 houses south, said that he has 4 children and they love to walk over there and have a great dinner and they love the family atmosphere. He said his kids are 6 and 3 and when playing in the children's play area, they're able to see their friends and make new friends. Obviously, since they live so close and love the food, they are there all the time. He said he has never gone there without having seen at least one of his friends. He said his son loves watching football and baseball. They watch it together, so it's nice that they can hang out together. He said "Americas Cup Yogurt" is very loud with kids from high school getting yogurt and socializing out front until they close at 10 p.m.. He said the "Little Knights" also have a TV outside on their patio and he can hear the noise until 1 a.m. when they close. He hears that noise all the time and said he doubted very much that any noise from the Beach Pit Barbeque is going to affect him in any way. ●Beth Refakas, 320 Magnolia Street, Costa Mesa, said that while the Beach Pit Barbeque may make contributions and do things for the community, the two issues are completely separate. She said the noise generated from a sports event, regardless if the sound is on or off, it will impact the surrounding residents. She said residents are only 30 feet from the restaurant and a canopy is not a sound barrier and will not reduce the sound enough to allow the peace and quiet they are entitled to. Denial of this request will not prevent them from operating the restaurant; they already have an indoor television and this does not have a significant impact on their ability to conduct a business. She urged the Commission to uphold staff's recommendation of denial. ●Dorothy McNiff, 1672 Tustin

Avenue, Costa Mesa, said she wanted to remind Mr. Decinces that when they bought their home, there was a house in the location of his restaurant. She said it is not the City's responsibility to keep the Beach Pit Barbeque competitive; the restaurant was and is proposed as a family restaurant, why then would it be competing with the Little Knight, or America's Cup Yogurt" neither of which bears any resemblance to the Beach Pit Barbeque. The Little Knight's television set fronts on 17th Street and is approximately 290 feet from the nearest residential property. She also made comparisons to other restaurants and most were surrounded by commercial and were within 200 feet of residential and not 30 feet. She asked where in Costa Mesa are there restaurants with outdoor seating and playgrounds located within 20 feet of residential property. She said the applicant continually references within "200" feet and these complaints are not just coming from one neighbor (noting the letters contained in the Planning Division staff report). The statement that they have had no problems with the City in the past 6 months is inaccurate; there have been numerous problems such as an (1) illegal banner; (2) a television installed in March and utilized in clear violation of the conditional use permit; (3) The Cat Hospital has had to build a block wall to secure their parking lot. The issue is noise and they would not object if the restaurant eating was enclosed and indoors. On Sunday, June 3rd at approximately 3 p.m., there was a gathering with cheering and shouting on the back patio and the canopy had virtually no affect on the noise. Neighbors left their own patios because of the noise. The noise from the front area (children's playground) of the restaurant is often unbearable; the children don't play quietly, they scream and shout and it's like an outdoor Chucky Cheese. There have been previous gatherings with the same cheering and clapping. •Bill Perkins, Costa Mesa resident, stated that he was downstairs watching the meeting listening to the comments that were made. He said Commissioner Egan asked a good question in the sense that we were told "no" one time, and the TV went out on the patio anyway—mistake. He said the things the Commission is hearing tonight, I think we should focus on just the TV aspect of it. He said he could give the Commission a laundry list and we can play, "he said, she said" which we've done before in our meetings where it becomes something of a negative tone. They've got a laundry list of things they don't like; we've got a laundry list of things that we don't like. As far as the TV is concerned with no volume back there, in an enclosed area, barring what we've already heard about the Angeles going to the playoffs, or specific college football games and things like that, those can be controlled by management, and they have been controlled by management. He said he's popped in there plenty of times and they have been completely full and it's been pretty quiet for the most part. We do have kids that run around in the play area which is great because that's what you want and you want more of these places in Costa Mesa versus than less of them. He said he can guaranty that they are not going to do any harm to the community, in his opinion, more so than some of the places we've looked at before which is things that open past 9 p.m. that have more alcohol uses, and live entertainment uses. We're going to be better than those people and we are not going to be any worse off. He urged the Commission to give the Beach Pit Barbeque some consideration. He said, like Mr. Decinces said, we hope that the consideration will be

given and the residents will exclude me and exclude the applicant's father and judge it on its merits.

Mr. Decinces returned to the podium to address any issues. He stated that Mrs. McNiff said she understood and made it clear that she knew the property was zoned commercially before they purchased. He pointed out the restaurants Mrs. McNiff named that have their parking lots abutting residential properties as does every business up and down 17th Street about residences. He felt the McNiff's who have been unhappy since the Beach Pit Barbeque moved in, just don't want any business there at all. He detailed a letter from Grant McNiff written in 2003 in an effort to keep out a storage company that wanted this location to run their business. He asked the Commission again to approve their request for a television set for the patio.

Commissioner Fisler said he did agree with Mrs. McNiff in that it was a little arrogant to put the television set on the patio after the Commission denied it. He asked who did it and why go ahead with it. Mr. Decinces said it was an error in judgment on his part and he takes responsibility for it, due to his frustration and all the dealings that had come up. They had some team groups that wanted to show their video and they wouldn't book it if he didn't put the television out. He said he made a mistake. In conclusion, he listed other uses that would be permitted on this site: liquor store; a mortuary; a pumpkin patch/Christmas tree business; pawn shop; massage parlor; Laundromat; etc.

No one else wished to speak and Acting Chair Hall closed the public hearing.

MOTION:
Appeal ZA-06-18

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 3-1 (Hall voted no and Perkins abstained) to uphold the Zoning Administrator's denial, by adoption of Planning Commission Resolution PC-06-51, based on public testimony, analysis and information in the Planning Division staff report, and findings contained in exhibit "A."

During discussion on the motion, Commissioner Egan explained that the only issue before the Commission is the permission for the television set to be approved for outdoor use on the patio—not whether this is a good restaurant or a bad restaurant, or whether its good or bad for the community; the food is good and she can attest to that, but she does not live next door to it and other people do. Nothing has changed. There are still people living next door at the same distance; there is still the potential for excessive noise, i.e., people will cheer, especially when their team does something that they approve of and its just an additional noisy issue there for the neighbors. She said the Commission should be consistent with the decision made previously.

Commissioner Garlich says he feels much the same way. He never thought this was a "sports bar" or any kind of bar. He was pleased by many of the letters he saw that talked about the community-oriented support that the Beach Pit Barbeque has given to the schools, youth sports organizations, etc., and he thinks that's great. Like Commissioner Egan, he has been there many times; it's a well-run business. He said the use of the land has been pretty well maxed out and innovation has been used to get the most business use out the land—closing it is out of the question. He said it is

and was from the beginning, only about the crowd noise. Even the TV noise was never an issue for him. The only thing that's changed, since the first hearing on this, he did not remember hearing as much about team events with team videos of their sports activities and there seems to be a lot of that, and he would expect those kids to yell; that's why they have those videos. Trying to manage them to not yell is not a realistic expectation. Once again, it just comes down to the noise of the patrons associated with the use of the TV. He did not believe the canvas cover makes any difference at all. In conclusion, he said when you have commercial next to residential, you must pay particular attention to the operational characteristics of the use and that's probably a part of the reason the storage unit was denied in the first place. When you've got this close proximity of residential to commercial, it takes a focused effort on what the operational characteristics are to make it as compatible as it can be for all the parties. He felt everything about this operation is exemplary; he liked the way it accommodates the kids; he likes the food; service; and the appearance. The crowd noise is always going to be there and with team videos, maybe even more than he thought the first time around.

Commissioner Fisler said for him, this is a tough decision because we have a television set that's going to have no sound on it; so how would that impact anyone? As Commissioner Garlich said, there are patrons who will be reacting to what's on that TV with or without sound. The issue is noise whether from the TV or the patrons. He did not remember whether the first time around, the television was going to have the volume muted. He said he also frequents this restaurant and he loves the food, service, and atmosphere and that it's a positive addition to our City. He said it's hard to vote against something you really like, but it really is a patron noise issue.

Acting Chair Hall called for the question as shown in the above motion.

Acting Chair Hall explained the appeal process.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JULY 10, 2006

U. 3

ITEM NUMBER

SUBJECT: APPEAL OF MINOR CONDITIONAL USE PERMIT ZA-06-18
1676 TUSTIN AVENUE (BEACH PIT BBQ)

DATE: JUNE 29, 2006

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

BACKGROUND

The subject application is an appeal of Zoning Administrator's denial of an outdoor television behind the Beach Pit BBQ restaurant. It was rescheduled from the June 12, 2006, Planning Commission meeting because there was a lack of a quorum. The original staff report, recommendation, and updated resolution are attached.

WENDY SHIH
Associate Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

Attachments: Planning Commission Agenda Report dated June 12, 2006
Draft resolution including exhibits "A" and "B"
Appeal Application Form
Description/Justification Form
Zoning Administrator's denial letter dated April 20, 2006 and
Correspondence
Zoning/Location map
Plans

cc: Deputy City Manager - Dev. Svs. Director
Senior Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Mike Simonian
99 Linda Isle
Newport Beach, CA 92660

Tim Decinces
711 East 17th Street, B-12
Costa Mesa, CA 92627

Dorothy McNiff
1672 Tustin Avenue
Costa Mesa, CA 92626

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| File: 071006ZA0618 | Date: 062006 | Time: 10:30 a.m. |
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CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,

PLEASE CONTACT THE CITY CLERK'S OFFICE AT

(714) 754-5121